

REMARKS

I. Statement

A Statement of Substance of Interview (“the Statement”) for the personal interview held on November 30, 2004 was previously submitted on January 13, 2005 with the Response to the Final Office Action dated July 15, 2004. However, the Interview Summary for the personal interview held on November 30, 2004 was also enclosed with the Advisory Action. Therefore to ensure that the Statement is made of record, Applicant resubmits the Statement, in its entirety, below.

Applicant thanks Examiner Chen for agreeing to meet with Applicant’s representatives to conduct an interview. The personal Examiner interview was held on November 30, 2004. During the interview, currently pending independent claims 18 and 21 were discussed in view of U.S. Patent No. 4,705,707, issued to Winter (“the Winter ’707 patent”), U.S. Patent No. 4,716,061, issued to Winter (“the Winter ’061 patent”), U.S. Patent No. 4,554,303, issued to Petke *et al.* (“the Petke ’303 patent”) and U.S. Patent No. 4,352,925, issued to Petke *et al.* (“the Petke ’925 patent”).

During the interview, the Examiner suggested an amendment to the claims that would overcome rejection of the claims based on the cited art of record. The claim amendment presented herein is in conformance with the claim amendment suggested during the interview.

II. Amendment

Reconsideration of the Application is respectfully requested. Upon entry of the foregoing amendment, claims 1-39 are pending in the Application. Claims 18-31 and 35 are amended.

Applicant respectfully requests entry of the above amendment and submits that the above amendment does not constitute new matter. Support for the amendments to the claims can be found throughout the specification (considered as a whole) and in the claims as originally filed. In particular, support for the amendment to claims 18 and 21 can be found, *inter alia*, in claims 18 and 21 as originally filed, respectively, and in the specification at page 4, lines 16-20 and page 4, line 23 to page 5, line 2. Claims 19, 20, 22-31 and 35 are amended for antecedent basis.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

III. Claim Objection

Applicant thanks the Examiner for withdrawing the claim objection.

IV. Claim Rejections Under 35 U.S.C. § 103(a)

Claims 18-30 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over the Winter '707 patent in view of the Petke '303 patent and over the Winter '061 patent in view of the Petke '303 patent. Claims 18-24 and 28-30 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over the Winter '707 patent in view of the Petke '925 patent and over the Winter '061 patent in view of the Petke '925 patent.

Claims 18-30

The Office Action stated claims 18-30 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the Winter '707 patent in view of the Petke '303 patent. The Office Action also rejected claims 18-30 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the Winter '061 patent in view of the Petke '303 patent. Applicant respectfully traverses these rejections.

Amended independent claims 18 and 21, which include no new matter, reflect the understanding reached during the interview of November 30, 2004. The Interview Summary reads as follows:

The Examiner suggested that the claims be amended to clearly reflect that the claimed film is a twist wrapping film which inherently holds its shape when twisted around a product, which can be distinguished from the heat-sealable packaging films of WINTER and PETKE.

Interview Summary of November 30, 2004, page 3.

Independent claims 18 and 21, each as currently amended, incorporate the amendment suggested by the Examiner during the interview. Thus, Applicant submits that claims 18 and 21, as well as dependent claims 19, 20 and 22-30, contain allowable subject matter.

In particular, claims 18-30 as amended, are distinguished over the Winter '707 patent and the Petke '303 patent, either individually or in combination. Applicant further submits that claims 18-30, as amended, are distinguished over the Winter '061 patent and the Petke '303 patent, either individually or in combination.

Accordingly, Applicant respectfully requests the withdrawal of all outstanding rejections against claims 18-30 under 35 U.S.C. § 103(a).

Claims 18-24 and 28-30

The Office Action stated that claims 18-24 and 28-30 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the Winter '707 patent in view of the Petke '925 patent. The Office Action also rejected claims 18-24 and 28-30 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the Winter '061 patent in view of the Petke '925 patent. Applicant respectfully traverses these rejections.

As discussed above, independent claims 18 and 21, each as currently amended, incorporate the amendment suggested by the Examiner during the interview. Therefore, Applicant submits that independent claims 18 and 21, as well as dependent claims 19, 20 and 22-30, contain allowable subject matter.

Specifically, claims 18-24 and 28-30, as amended, are distinguished over the Winter '707 patent and the Petke '925 patent, either individually or in combination. Furthermore, Applicant submits that claims 18-24 and 28-30, as amended, are distinguished over the Winter '061 patent and the Petke '925 patent, either individually or in combination.

Consequently, Applicant respectfully requests the withdrawal of all outstanding rejections against claims 18-24 and 28-30 under 35 U.S.C. § 103(a).

V. U.S. Patent No. 5,912,070

In the Advisory Action, the Examiner stated that U.S. Patent No. 5,912,070 issued to Miharu *et al.* ("the Miharu patent") "disclose[s] or suggest[s] major features of the recited invention . . . as set forth in the proposed amendments." Advisory Action, page 2. Applicant respectfully disagrees.

The Miharu patent states that a laminated film may be used for twist packaging (see col. 19, ll. 7-11). However, the composition of the laminate in the Miharu patent is readily distinguishable from the claimed twist wrap. The Miharu patent states that the laminated film comprises a three-layer A/B/C composition. See col. 3, ll. 32-40. The claimed invention, on the other hand, comprises a X/Y/X composition. Therefore, the Miharu patent clearly does not teach or suggest the composition of the claimed invention.

In addition, the constituents of the claimed invention are distinct from the five-layer laminate of the Miharu patent that, according to the Miharu patent, involves an (A/B/C/B/A) composition. In the Miharu patent, “A” is a polyester resin, “B” is an adhesive and “C” is a cycloolefin-based resin. See col. 3, ll. 41-50. Thus, the Miharu patent does not disclose a film comprising outer layers containing polyethylene terephthalate glycol (“PETG”) and a middle layer containing a polyolefin. Moreover, the Miharu patent states that the polyester resin may be standard polyethylene terephthalate (“PET”) (see col. 3, l. 54 – col. 5, l. 23), not PETG, which is an amorphous or semi-crystalline polyester.

For at least the aforementioned reasons, the Miharu patent neither discloses, nor suggests, the claimed invention. Therefore, Applicant respectfully submits that claims 18-30 are in condition for allowance, and an indication of such is respectfully requested.

VI. Rejoinder of Claims 31-35

Applicant acknowledges that claims 31-35 have been withdrawn from consideration. Claims 31-35, which are directed to processes, each depend either directly or indirectly from claim 18, which is directed to a product, and thus incorporate all of the limitations of claim 18. “[I]f applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.” M.P.E.P. § 821.04 at 800-63 (8th ed., rev. 2). As discussed above, Applicant submits that claim 18 is in condition for allowance. Accordingly, Applicant respectfully requests that claims 31-35 be rejoined and examined for patentability. Furthermore, Applicant submits that, for the reasons discussed above with respect to claim 18, claims 31-35 should be allowed.

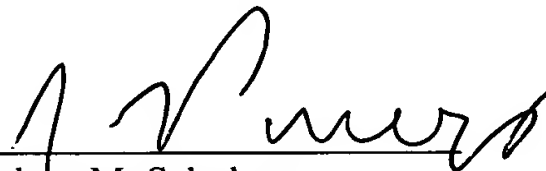
CONCLUSION

Applicant respectfully requests entry of the above claim amendments and rejoinder of the withdrawn process claims. For at least the reasons stated above, claims 18-30, as well as claims 31-35, are in condition for allowance. Accordingly, Applicant respectfully requests that the Application be allowed and passed to issue. Should the Examiner believe anything further is desirable in order to place the Application in even better condition for allowance, the Examiner is invited to contact the Applicant's undersigned representative.

Applicant believes no additional fees are required. However, in the event of any variance between the amount enclosed and the fees determined by the U.S. Patent and Trademark Office, please charge or credit any such variance to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,
HUNTON & WILLIAMS

Date: 3/18/05

By: 
Robert M. Schulman
Registration No. 31,196

Jessica L. Parezo
Registration No. 50,286

HUNTON & WILLIAMS LLP
1900 K Street, N.W.
Washington, D.C. 20006
Telephone (202) 955-1500
Fax: (202) 778-2201